

### **III. Remarks**

#### **A. Status of the Application**

Claims 1, 3-12, and 14-20 were previously pending. No claims are added or canceled by the present paper. Independent claims 1 and 12 are amended by the present paper.

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

#### **B. Improper Notice of Abandonment**

A Notice of Abandonment was improperly mailed April 8, 2010. In that regard, the Notice of Abandonment indicated that Applicants' failed to timely reply to the Notice of Panel Decision mailed October 23, 2009 before March 29, 2010. However, the time period for responding the Notice of Panel decision was extendable to April 23, 2010, and did not expire on March 29, 2010. As noted in the Notice of Panel Decision: "The time period for filing an appeal brief will be reset to be **one month from mailing this decision** ... Further, the time period for filing of the appeal brief is **extendable under 37 CFR 1.136** based upon the mail date of this decision." Accordingly, with the initial one-month time period for responding (to November 23, 2009) plus the 5 months of extension available under 37 CFR 1.136, Applicants have until April 23, 2010 to respond. Applicants are timely submitting the present paper within the allotted time period. Thus, Applicants request that the improper Notice of Abandonment be withdrawn and the present paper be entered.

#### **C. Formal Request for Interview**

While Applicants believe that the present paper should put the case into condition for allowance, Applicants request that the Examiner contact the undersigned attorney Greg Webb at 972-739-8641 in order to set up a convenient time for a telephone interview should there be any remaining issues preventing allowance of this case.

## D. Claim Rejections – 35 U.S.C. § 103

### 1. Valley and Van Erp

Claims 1, 3, 4, 7, 8, 9, 12, 14, and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,795,325 to Valley et al. (“Valley patent”) in view of U.S. Patent No. 5,591,142 to Van Erp (“Van Erp patent”).

The PTO provides in MPEP § 2131 that

“The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.”

The Examiner clearly cannot, using the Valley and Van Erp patents, establish a *prima facie* case of obviousness in connection to claims 1, 3, 4, 7, 8, 9, 12, 14, and 17-19 for at least the following reasons.

35 U.S.C. § 103(a) provides, in part, that:

“A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time of the invention was made to a person having ordinary skill in the art . . .” (emphasis added)

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated.

With respect to independent claim 1, even when combined the Valley and Van Erp patents fail to disclose or suggest “wherein the plurality of wires are divided into at least first and second wire bundles, **each of the wires in at least the first and second wire bundles twisted together such that the wires in at least the first and second wire bundles are not arranged side by side** in order to reduce electromagnetic interference between the wires, and wherein the plurality of wires carry control signals transmitted to the sensor assembly and sensor signals transmitted from the sensor assembly; and wherein at least **the first and second wire bundles are twisted together** and disposed within an outer conductor assembly sheath having an inner wall forming a space containing at least the first and second wire bundles of the plurality of wires.”

The previous Office Action recognized that the Valley patent does not disclose first and second twisted wire bundles being twisted together. Similarly, the Van Erp patent does not disclose or suggest such features either. In that regard, the Van Erp patent explicitly notes that “The metal wires include at least two bundles of wires in each of which **the wires are arranged sided by side** to enable the tubular body to have a very thin wall.” (Abstract) As shown in Figs. 3, 4, 4A, and 5 of the Van Erp patent, the wires of each bundle are clearly not twisted, but are positioned side by side. The Van Erp patent **intentionally does not twist the wires** in each bundle. As described by the Van Erp patent “**no single wire in a bundle overlying another single wire in the bundle** enables the tubular body of the catheter 3 to have a very thin wall.” (Col. 3, ll. 55-58) In that regard, Applicants have amended claim 1, as noted above, to further clarify that the twisted wires of the first and second wire bundles are not in a side by side configuration. Rather, the wires of the first bundle are twisted together (not side by side), the wires of the second bundle are twisted together (not side by side), and the first and second bundles themselves are twisted together. Accordingly, even when combined the Valley and Van Erp patents fail to disclose or suggest all of the recited limitations of independent claim 1.

Thus, a *prima facie* case of obviousness cannot be established with respect to independent claim 1. Claims 3, 4, 7, 8, 9 depend from and further limit claim 1 and recite additional combinations of features not disclosed or suggested by the Valley and Van Erp patents. Therefore, Applicants request that the § 103 rejection of claims 1, 3, 4, 7, 8, and 9 over the Valley and Van Erp patents be withdrawn.

With respect to independent claim 12, even when combined the Valley and Van Erp patents fail to disclose or suggest “wherein the plurality of wires are divided into first and second wire bundles, **each of the wires in the first and second wire bundles twisted together such that the wires are not arranged side by side** in order to reduce electromagnetic interference between wires in the first and second wire, wherein the wires of the first wire bundle are disposed within a **first sheath**, wherein the wires of the second wire bundle are disposed within a **second sheath**, and wherein the plurality of wires carry control signals transmitted to the sensor assembly and sensor signals transmitted from the sensor assembly, and wherein **the first and second sheaths are twisted together and disposed within an outer conductor assembly**

**sheath** having an inner wall forming a space containing the first and second wire bundles of the plurality of wires.”

Similar to the discussion above with respect to claim 1, the Valley and Van Erp patents simply does not disclose or suggest having first and second twisted wire bundles being twisted together, let alone where the first and second twisted wire bundles are positioned within separate sheaths as recited by claim 12. Accordingly, even when combined the Valley and Van Erp patents fail to disclose or suggest all of the recited limitations of independent claim 12. Thus, a *prima facie* case of obviousness cannot be established with respect to independent claim 12. Claims 14 and 17-19 depend from and further limit claim 12 and recite additional combinations of features not disclosed or suggested by the Valley and Van Erp patents. Therefore, Applicants request that the § 103 rejection of claims 12, 14, and 17-19 over the Valley and Van Erp patents be withdrawn.

## **2. Valley, Van Erp, and Taylor**

Claims 5, 6, 10, 11, 15, 16, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Valley and Van Erp patents in further view of U.S. Patent No. 5,374,782 to Taylor et al. (“Taylor patent”). Claims 5, 6, 10, and 11 depend from and further limit claim 1, while claims 15, 16, and 20 depend from and further limit claim 12. As shown above, the Valley and Van Erp patents are insufficient to establish a *prima facie* case of obviousness with respect to claims 1 and 12. The Taylor patent does not affect this deficiency. Accordingly, for at least the same reasons a *prima facie* case of obviousness cannot be established with respect to dependent claims 5, 6, 10, 11, 15, 16, and 20. Therefore, Applicants request that the § 103 rejection of claims 5, 6, 10, 11, 15, 16, and 20 over the Valley, Van Erp, and Taylor patents be withdrawn.

**IV. Conclusion**

It is believed that all matters set forth in the Office Action have been addressed and that all of the pending claims are in condition for allowance. Accordingly, a formal indication of allowability is respectfully requested.

The Office Action contains characterizations of the claims and the cited references to which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in this or any other Office Action.

Respectfully submitted,



Gregory P. Webb  
Registration No. 59,859

Date: April 23, 2010

HAYNES AND BOONE, LLP  
Customer No. 27683  
Telephone: 972-680-7557  
Facsimile: 214-200-0853  
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4-23-10

Dayle Conner